

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Tyler Martin, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant for information associated with OfferUp accounts in the name of **Teddy Avila, No. 40346644** and **Bunny Hibbert, No. 40786873** that are stored at premises controlled by OfferUp, an online marketplace headquartered in Bellevue, Washington. The information to be searched is described in the following paragraphs and in Attachment A. This search warrant, to be issued under 18 U.S.C. § 2703(a), (b)(1)(A) and (c)(1)(A), will require OfferUp to disclose to the government copies of the stored information (including the content of communications) further described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section I of Attachment B.

2. I am a Special Agent (SA) with the U.S. Secret Service. I have worked as a law enforcement officer since 2010. I have participated in the investigation of numerous financial crimes involving counterfeit currency, counterfeit identification, and bank fraud. In my career I have utilized various investigative tools and techniques, to include the use of search warrants for electronic devices and digital information.

3. Based on my training and experience and the facts as set forth in this affidavit, I submit that probable cause exists to believe that violations of 18 U.S.C. section 2314 have been committed and that evidence of these offenses will be found in stored communications associated with account numbers **40346644** and **40786873**. Account number 40346644 is in the

name of Teddy Avila and account number 40786873 is in the name of Bunny Hibbert. I further submit that there is probable cause to search for the information described in Attachment A.

JURISDICTION

1. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711, 18 U.S.C. § 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is “a district court of the United States … that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).

APPLICABLE LAW

2. Section 2314 of Title 18 of the United States Code provides in part that “Whoever transports, transmits, or transfers in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of \$5,000 or more, knowing the same to have been stolen, converted or taken by fraud...shall be fined under this title or imprisoned not more than 10 years, or both.”

PROBABLE CAUSE

3. On February 21, 2019, at approximately 1605 hours, Officer Shute of the Auburn Police Department responded to the Home Depot located at 149 Turner Street for a report of a theft in progress. A Home Depot loss prevention associate stated he observed two males, later identified as Bunny Hibbert (YOB 1983) and Jose Avila (YOB 1986), select two Honda generators from the shelf, remove the spider wire security system from the item and then attempt to leave the store with the generators without paying for them. When they were confronted, they attempted to flee but both men were apprehended a short time later.

4. Bunny Hibbert and Jose Avila were both arrested on state charges for grand theft (over \$1000) and taken to Androscoggin County Jail.

5. Detective Nick Gagnon of the Auburn Police Department was dispatched to the scene and later obtained a state search warrant for the work van that had been used by Bunny Hibbert and Jose Avila. Upon execution of the search warrant, Det. Gagnon located numerous receipts from Home Depot's throughout the New England area and documentation showing money transfers to Jamaica in Jose Avila's name inside the van. Some of the wires exceeded two thousand dollars.

6. On February 28, 2019, Det. Gagnon and I interviewed Bunny Hibbert at the Androscoggin County Jail. I read Bunny Hibbert his Miranda Rights prior to the commencement of the interview.

7. Bunny Hibbert advised that Jose Avila and he would steal tools from Home Depot and other hardware stores from different states and then take them back to New York and sell the items on an internet marketplace site, OfferUp. Bunny Hibbert advised that both he and Jose Avila used this site to sell the stolen items. Bunny Hibbert advised there is an OfferUp application on his phone. Hibbert advised that he would use the money he earned for bills and other living expenses and was not sure what Jose Avila did with his money. Bunny Hibbert further claimed that he was a painter and Jose Avila would find jobs for them in different states. Bunny Hibbert advised that they would steal tools and other items while getting supplies for the painting job for which they had been hired. Bunny Hibbert advised that he has known Jose Avila for approximately two years and has been stealing and selling items for approximately two months.

8. As part of this investigation, I have been in contact with loss prevention personnel employed by Home Depot. Home Depot has conducted an investigation into shoplifting by Avila and Hibbert and according to information provided to me by Home Depot, Home Depot believes that Avila, Hibbert, and another person working in concert with them, are responsible

for the theft of over \$115,000 in merchandise from stores in several states including Maine, Massachusetts, Rhode Island.

9. I obtained information from OfferUp relating to the accounts **40346644** and **40786873**. Account number 40346644 is in the name of Teddy Avila¹ and account number 40786873 is in the name of Bunny Hibbert. Review of each account reveals that both accounts have been used numerous times in the past to sell power tools. The photographs associated with many of the listings show the merchandise still in the original box which leads me to believe the items being sold are new and unused. Many of the listings on the Avila account offer the item as brand new and unused. Most of the merchandise listed on these accounts were sold in Connecticut and New York City.

10. The conduct described above provides probable cause to believe that evidence related to the referenced federal crime may be found, and that a search of the information associated with the OfferUp accounts **40346644** and **40786873** will lead to additional evidence of that crime. Such evidence may include (1) the names or other identifying information of individuals communicating with Avila and/or Hibbert related to the sale of stolen property (2) location information for Avila, Hibbert, and co-conspirators (3) financial institution account information for Avila, Hibbert, and co-conspirators; and (4) a description of methods used to commit the sale of stolen property.

¹ Although the OfferUp account is in the name of Teddy Avila, I believe the user of the account is in fact Jose Avila because the telephone number used to establish the account is the same telephone number provided by Jose Avila at the time of his February 2019 arrest and that telephone number is also associated with Jose Avila in a law enforcement database.

BACKGROUND CONCERNING OFFERUP INC.

11. In my training and experience, I have learned that OfferUp is an online marketplace on which members buy and sell merchandise. To sell merchandise, a person must establish an account with OfferUp. OfferUp tracks all transactions affiliated with each account. Therefore, the computers of OfferUp are likely to contain stored electronic communications between the buyers who made purchases from these specific accounts. In my training and experience, such information may constitute evidence of the crimes under investigation because the information can be used to identify where the specific property sold was obtained by Avila, Hibbert, or co-conspirators.

CONCLUSION

12. Based on the forgoing, I submit that probable cause exists to believe that violations of 18 U.S.C. section 2314 have been committed. I further submit that probable cause exists to believe that evidence of these offenses will be found in information stored by OfferUp Inc. I therefore request that the Court issue the proposed search warrant. Because the warrant directed to OfferUp will be served on OfferUp who will then compile the requested records at a time convenient to it, I submit that reasonable cause exists to permit the execution of the requested warrant at any time in the day or night.

Dated at Portland, Maine this ___th day of July, 2019.



Tyler Martin, Special Agent
U.S. Secret Service

Sworn and subscribed before me this 11th day of July, 2019.



John H. Rich III
United States Magistrate Judge